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**City of Sherwood, Oregon  
Planning Commission  
February 11, 2014**

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**Planning Commission Members Present:**

Chair Jean Simson  
Vice Chair James Copfer  
Commissioner Michael Cary  
Commissioner John Clifford  
Commissioner Russell Griffin

**Staff Present:**

Julia Hajduk, Community Development Director  
Bob Galati, Civil Engineer  
Brad Kilby, Planning Manager  
Kirsten Allen, Planning Dept. Program Coordinator

**Planning Commission Members Absent:**

Commissioner Beth Cooke  
Commissioner Lisa Walker

**Council Members Present:**

Mayor Bill Middleton

**Legal Counsel:**

Chris Crean

**1. Call to Order/Roll Call**

Chair Jean Simson called the meeting to order at 7:11 pm.

**2. Agenda Review**

The agenda consisted of the Consent Agenda and a Public Hearing for PA 13-05 Front Yard Setbacks. The minutes for January 14, 2014 were added through an amended agenda and emailed to the Planning Commission earlier in the day. Chair Simson called a recess at 7:14 pm to allow time for Commission members to review the minutes and reconvened the meeting at 7:28 pm.

**3. Consent Agenda:**

- a. **December 18, 2013 Planning Commission Minutes**
- b. **January 14, 2014 Planning Commission Minutes**

Chair Simson indicated two corrections on the January 14, 2014 minutes: on page 13 changing the first sentence of 3<sup>rd</sup> paragraph to *Chair Simson asked for a final staff report* and the last paragraph of the same page changing it to read *the Commission chose to review the parts of the site that would be impacted*. On page 15, the exhibit was changed from Exhibit 15 to Exhibit 16. Chair Simson and Commissioner Russell Griffin gave staff some scrivener's errors.

**Motion: From Vice Chair James Copfer to accept the Consent Agenda with changes as stated. Seconded by Commissioner John Clifford. All present Planning Commissioners voted in favor (Commissioners Walker and Cooke were absent).**

**4. Council Liaison Announcements**

Mayor Middleton deferred his announcements to the Planning Manager to discuss the zone change and text amendment that was recently passed by the City Council.

**5. Staff Announcements**

Brad Kilby, Planning Manager, reminded that the Planning Commission recommendation was to approve the rezone, but to prohibit apartments or multi-family and to deny the text amendment unless there was a sunset clause. He reported that the City Council approved the rezone with no limitation on uses and approved the text amendment only in the high density residential zone with a one year sunset clause. Brad commented that the ordinance was primarily targeted towards a specific property, but there may be other properties that would be subject to the same limitations within that one year time frame. He noted that the Planning Commission should reconsider adding conditions to rezones because a note has to be placed on the zoning map. He gave the example of the mobile home property on Hwy 99W that was rezoned and the applicant did not want to go through the Transportation Planning Rule analysis so the property was conditioned; to this day the City has struggles with implementing that property separately. Brad stated that it may be better to deny a rezone than to try to condition it.

Brad informed the Commission that there was a Citizen's Advisory Committee and Technical Advisory Committee meetings for the Transportation System Plan Update on February 12, 2014 and a public open house on February 13, 2014 in the mezzanine at City Hall.

## **6. Community Comments**

There were no community comments.

## **7. New Business**

### **a. Public Hearing – PA 13-05 Front Yard Setbacks**

Chair Simson read the public hearing statement and indicated that the Planning Commission would be making a recommendation to the City Council. She said because the action was legislative there was no ex parte contact and asked for any conflicts of interest or bias. Chris Crean, city legal counsel, clarified that there was no bias, just conflicts of interest.

Chair Simson disclosed that the company she works for supplies materials that are sold to DR Horton. She said that the company has multiple customers and many people provide materials to DR Horton so she was not in an exclusive class, but there was a limited potential conflict.

Chair Simson asked for the staff report.

Brad Kilby, Planning Manager explained that *Exhibit 2- Proposed Development Code Changes - Clean Format* in the packet was not the clean format, but the existing code language. He directed the Commission to use *Exhibit 3- Proposed Development Code Changes Track Changes Format* for the proposed language.

Brad gave a presentation for PA 13-05 (see record, Exhibit A) said the application was a proposal received by DR Horton to amend the front yard setbacks within the Medium Density Residential Low (MDRL), Medium Density Residential High (MDRH), and High Density Residential (HDR) zones. He said that all residential zones currently have a minimum front yard setback of twenty feet with a few exceptions; primarily in Planned Unit Developments. Brad related that the City has some residential areas with setbacks at fifteen feet and some at ten feet. He indicated that the proposal does not include amending the side or rear yard setbacks. Brad explained that the proposal asks for a setback to the primary structure to change to fourteen feet; the face of the garage remains twenty feet which is customary with variable setbacks, because there needs to be room in front of the garage to park a car on the driveway; and to allow ten feet to the front of a porch.

Brad had some points of consideration for the Planning Commission before making the recommendation to the City Council:

- Setbacks were originally put in to American zoning standards to ensure light and air could circulate in and around buildings.
- Setbacks were increased in the U.S. to promote larger yards and suburban development.
- The City requires an eight foot Public Utility Easement along the front property lines of all new lots /parcels (The proposed would not encroach on this easement).
- The City currently allows architectural features to project five feet into a front and rear yard setbacks in 16.50.050. For example: if the face of the house at 14 feet, with a 5 foot projection into the setback, the setback is down to 9 feet.

Brad gave some examples of setbacks from surrounding jurisdictions.

Zoning	Tualatin	Lake Oswego	Tigard	Beaverton*	Newberg
<b>Low Density</b>	15 feet (12 feet to an uncovered porch)	25 Feet	30 Feet	10 Feet	15 Feet
<b>Medium Density</b>	20 feet for 1 story, 25 feet for 1 1/2-story, 30 feet for 2-story, and 35 feet for 2 1/2-story	20 Feet	20 Feet	15-17 Feet	12 Feet
<b>High Density</b>	Same as Above	10-20 Feet	10 Feet	25 Feet	12 Feet

Brad explained that Lake Oswego has variable setbacks in high density zones and the ten foot setback typically applies to the attached single family developments, but allows reduced setback standards. He said that Beaverton has a tiered system where you can ask for reduced setbacks based on neighborhood consent.

Brad remarked that from a staff prospective, planners are generally in favor of flexible and variable standards because it affords the developer an opportunity to provide a variety of types of housing at different price points. He related that in this case the developer could move the house forward and get a bigger house or a bigger back yard. Brad indicated that there is plenty of air and space that flows around the development and the proposal does not include the side or rear yard setbacks.

Brad suggested that if the Commission chose to allow the reduced setbacks, they should consider the provision in the code that allows for projections into the front yard setback (see 16.50.050). He recommended an asterisk in the dimensional table for the applicable zones that says if the house is built to fourteen feet then no projections would be allowed beyond fourteen feet.

Chair Simson clarified that the provision for projections was in a different location in the code and the asterisk would be below the setback grid in the code. Brad added that the strictest standard applies and the provision to allow projections would remain in the code, because it would apply in other zones, not included in the amendment.

Commissioner Clifford asked for a clarification of what a front porch was and if livable space above would be considered the porch. Brad responded that something with a roof over it would be considered a front porch and livable space that projects out would be considered part of the primary structure as an

architectural feature. Brad explained that the Planning Commission could allow the architectural features to come five feet into the front yard setback, but that would drop the setback to nine feet.

Vice Chair Copfer asked where the setback is measured from. Brad responded that it is measured from the property line or the back of the sidewalk from the street.

Chair Simson asked how a variance would impact the setbacks.

Brad explained that there are three basic adjustments to the setback found in Section 16.84. He explained that a Class A Variance was the most difficult to obtain, not used a lot with setbacks, allowed the minimum relief necessary, and the situation had to be outside of the owners control which is difficult for new construction. Brad said an adjustment allows a 10% increase in the front yard and that it is fairly easy to meet the requirements with a \$50 application fee; on a ten foot setback they would be allowed an additional foot. Brad explained that a Class B variance was more difficult and expensive and allowed up to a 20% reduction in the front yard setback.

Julia added that subdivisions are specifically exempt in some variances. Brad confirmed that a *Class A* Variance could not be utilized for lots yet to be created and said it was typically a homeowner adding to their house that asks for an adjustment to the setbacks. Brad said there are variances to some site plan applications, like the Community Center, but we would not grant a variance to the setback requirements because it is something within the owner's control.

Commissioner Clifford commented that the language in Section 16.142.060 regarding street trees will have to be adjusted because it refers to front yard setback and that will be changing.

Brad responded that there will still be front yard setbacks, but the front yard may be smaller.

Chair Simson pointed out that Front Yard Setbacks was changed to Building Setbacks and said there are probably many references in the code to Front Yard Setbacks.

Brad responded that it would be listed under the Front Yard Setback standards in the table and Front Porch, Garage Entrance and Building setbacks would be further defined in the table.

With no other questions for staff, Chair Simson asked for applicant testimony.

**Andy Tiemann**, Project Manager for DR Horton, 4380 SW Macadam Ave, Ste. 100, Portland 97239 said DR Horton was currently building a subdivision called Daybreak in Sherwood and had been through a subdivision process with the Hearings Officer. He said they were aware that the front yard setback was a twenty feet, had inquired about variances or adjustments to setbacks, and decided to take the opportunity for a code amendment to apply to all zones. Mr. Tiemann indicated that over the years there has been a trend to have more pedestrian oriented homes, which means the porch closer to the street. He stated that most of their house plans in the Portland metropolitan area have porch dominant homes for a better street scene; the front door and porch are in front of the garage. Mr. Tiemann related that a code amendment was applied for a couple of months ago and said it would help in the subdivision currently being built. He explained that it would allow a larger buildable area for homes in a higher price range or allow a larger back yard which customers would rather have.

Mr. Tiemann gave a presentation (see record, Exhibit B) which showed a plot plan with the proposed setbacks. He summarized that Washington County and the cities of Happy Valley and Hillsboro also have flexibility in their front yard setbacks and further define the front yard setback to covered porches and the front of the dwelling wall. Mr. Tiemann showed several examples of houses, some of them in Sherwood, and discussed the porch dominant design that still enables front yard landscaping and a street scene. He said DR Horton would like to build the same type of homes in the Daybreak subdivision.

Commissioner Clifford asked regarding street trees and asked if there was any concern that the reduced setback would intrude on the tree canopies.

Mr. Tiemann responded that street trees usually have a canopy around thirty feet and when they are planted in the planting strip with a five foot sidewalk and ten feet to the porch, it still allows for a full tree canopy.

Commissioner Clifford asked if most of DR Horton's projects had planter strips.

Mr. Tiemann responded that most subdivisions had planter strips in the low and medium density zones. The higher density subdivisions have a trend for narrow streets in Portland that attempts to minimize development impacts and save trees in topo-constrained areas. He added that other trees are available that have a smaller canopy and are more columnar that can be used for curb tight sidewalks.

Commissioner Clifford commented on a situation where that there might be a four foot sidewalk and stairs leading up to a porch the front yard is essentially eliminated.

Mr. Tiemann replied that with the porch up front and the front door in close proximity to the driveway, it allows a larger area for the front yard. He reviewed some of the pictures from his presentation and said with larger homes the space between the garage and front door is greater. He asserted that there was still space for a green area and decent landscaping.

Commissioner Clifford asked if the homes would use random setbacks in the Daybreak subdivision.

Mr. Tiemann responded that they would like to use the proposed setbacks on all of the homes, that DR Horton had eight different floor plans, each with different elevations so the porches would be different. He said he did not think a ten foot setback would be used on every lot, but the varied setbacks gave them flexibility to push the houses closer to utilize living area and rear yards in order to maximize those areas.

Chair Simson pointed out that the garage would still have to be set back twenty feet, and with the porch at ten feet, and the front door at fourteen feet there would still be some articulation from the street.

Mr. Tiemann added that the neighborhood would have a variety of architectural plans so it would not be the same thing over and over, because the trend is also to have a variety of architectural styles. He added that "snout houses" look similar to each other and with flexibility in front yard setbacks there is a variation in the architecture to get a nice street scene.

Commissioner Cary asked Mr. Tiemann who wanted pedestrian friendly setbacks.

Mr. Tiemann answered that it was the general public and Metro. He said Metro wanted higher density developments.

There were no more questions for the applicant; 17:45 remaining for rebuttal.

Chair Simson asked for other testimony for or against the application. There was none. Mr. Tiemann declined rebuttal or further testimony with the time remaining. Chair Simson closed the public hearing and asked for final comments from staff.

Brad responded to a question from Commissioner Clifford and commented that Sherwood generally asks for a planter strip between the curb and sidewalk in all new developments. There may be curb tight sidewalks in older existing or approved Planned Unit Developments.

Commissioner Copfer indicated that there were streets in the Woodhaven neighborhoods that did not have planter strips. Brad confirmed and said that it has been an evolution. He said that engineers like the curb tight sidewalks, but as a community, the City has adopted standards that generally require planter strips. Brad added that the County may not always require planter strips, like on Edy Road, but will require a visual corridor.

Chair Simson asked if the Commission was ready to forward a favorable recommendation to the City Council. She expressed concerns about a fourteen foot setback for high density residential for the attached versus detached houses. Brad responded that the code does not differentiate between attached and detached, because it speaks to lot sizes when differentiating between product types.

Chair Simson said that she lived in a “snout house” and her personal observation was that it was better to have the eyes of the neighborhood where people can see them; the windows and front door out front where it feels like a small community and everyone can see what is going on. She said a better product could be realized by not having the garage as the prominent feature.

Commissioner Clifford agreed and said many of the craftsman and bungalow style houses built in the 1920’s and 30’s had front porches with garages set back. He said his concern was having the porches so close to the street that the beauty of the landscape would be lost to row after row of houses.

Vice Chair Copfer commented regarding existing communities with 20 foot setbacks and changing all the new development to reduced setbacks.

Brad commented that the City does have neighborhoods with setbacks other than twenty feet, although they are primarily approved through a Planned Unit Development. He said Woodhaven was an example of that, as there are variable setbacks throughout Woodhaven.

Chair Simson asked if the concern was the front porch at ten feet, not the fourteen feet to the front of the structure.

Commissioner Clifford confirmed and said ten feet was too close. He added that once you get the sidewalk in or a utility vault by the driveway you lose the opportunity for the homeowner to do anything with the front yard.

Vice Chair Copfer acknowledged that he supported the change, but was unsure about the ten feet.

Commissioner Cary concurred, alluded to the look of Sherwood, and commented that he would have liked more public input in order to know what the community wanted.

Commissioner Griffin said that he thought the twenty foot setback to the garage should remain and expressed that the front of the building or porch could be somewhere between twelve and fourteen feet. He said he would not want anything closer than twelve feet which is more appropriate for a city more urban than Sherwood.

Vice Chair Copfer commented that he did not think Sherwood was the Metro urban “cookie cutter” type of town and that we are different.

Commissioner Cary commented that he did not think the community wanted to be influenced by Metro.

Commissioner Griffin added that in some cases like the PUD development by Target it was okay, but he felt that it filled a specific niche, with a specific need. He said the Daybreak neighborhood was farther out and needed room to breathe.

Vice Chair Copfer said he did not want to take away the ability to have a variance for specific lots, if a ten foot porch was wanted, but he was not comfortable changing the code for every project going forward.

Chair Simson demonstrated that the fourteen foot building setback variance on a building would be 20% or 2.8 feet and said it would be pushing that ten foot envelope. She said changing the setbacks as proposed would encourage people to build neighborhood friendly communities by allowing the front door closer and the garage further back. Discussion followed with the general consensus that a ten foot setback was too close.

Chair Simson moved the discussion to the architectural features.

Brad commented that a fourteen feet setback allowing the architectural features to project into the setback, (porches and canopies are included in that language) then there is a potential of having a structure set nine feet back. He recommended that if the Commission's intent was to have the minimum distance at fourteen feet, then a footnote should be added to the table that says it would not include the architectural features of 16.52.050 in MDRL, MDRH, and HDR zones.

Brad spoke to Commissioner Cary's concern about public outreach and pointed out that Staff was also concerned about not having more input from the public. He said there was an article in the Gazette, The Archer city newsletter, and on the website but had not heard from anyone. The Commission commented that they had no idea how the community felt about it. Brad remarked that there are some setbacks within the city at that distance and there are not many complaints associated with it.

Vice chair Copfer asked if those setbacks were in pockets of Sherwood.

Brad confirmed and recounted that there is a variation of housing types in the city and he suspected that neighborhood monument signs were no longer permitted, because *one community* was wanted as opposed to individual neighborhoods. He acknowledged that there are some neighborhoods that pre-date that, but that it gives a sense of the community as a whole.

Commissioner Cary asked how many acres of undeveloped property were available in Sherwood. Brad responded that there currently was not a great deal of vacant land, however the change could apply to vacant land, land that can be redeveloped, or land annexed into the city. He stressed that it does not apply to all zones, but to MDRL, MDRH, and HDR that have smaller lots and in the lower density residential zone the twenty foot setback remains.

Commissioner Clifford suggested that a covered porch be defined, because other architectural elements besides a porch could be by a front door such as a stoop, or an overhang. Brad responded that if the ten foot setback for a porch is removed from the recommendation, then any portion of the structure must be outside the fourteen foot setback. Brad gave the example that eaves generally project away from the house, so with a two foot eave the structure would start at sixteen feet and the eave would meet the fourteen foot setback.

Chair Simson went over the changes discussed:

- The title Front Yard Setbacks would remain on the table, because it is reflected in other portions of the code.
- The proposed Front Porch Setback was eliminated; Garage Setback and Front Building Setback would remain.

- A Fourteen foot setback would be the recommendation going forward to the City Council with a numbered footnote that says that 16.50.050 Architectural Features was not allowed in the reduced setback zones.

The following motion was received.

**Motion: From Vice Chair James Copfer to forward a recommendation of approval to the Sherwood City Council on Front Yard Setbacks Amendment PA 13-05 based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the staff report with the following modifications: keep the title of Front Yard Setbacks, remove front porch, leaving garage and front building with the garage set at twenty feet across the board and with front building set at fourteen for medium, medium high, and high residential. With an annotation that states 16.050.50 does not apply. Seconded by Commissioner Michael Cary. All present Planning Commissioners voted in favor (Commissioners Walker and Cooke were absent).**

#### **8. Planning Commission Announcements**

There were no Planning Commission Announcements.

#### **9. Adjourn**

Chair Simson adjourned the meeting at 8:33 pm.

Submitted by:

Kirsten Allen

Kirsten Allen

Planning Department Program Coordinator

Approval Date: May 27, 2014